

**Maynard Planning Board  
Minutes of August 8, 2017 (approved)  
Maynard Town Hall, Room 201 - 7 p.m.**

Members present: Greg Tuzzolo - Chair, Andrew D'Amour - Vice Chair, William Gosz, Samantha Elliott, Brent Mathison and Megan Zammuto

7:15 PM – Chair Tuzzolo called the meeting to order

Chair Tuzzolo opened the continued public Hearings for the Site Plan review and Special Permits:

**a. 129 Parker Street (Continued from 07.25.17): The Petitioner, Maynard Crossings JV, LLC - Capital Group Properties, 259 Turnpike Road, Southborough, MA 01772, is requesting Site Plan approval for a mixed-use development at 129 Parker Street.**

**b. 129 Parker Street (Continued from 07.25.17): The Petitioner, Maynard Crossings JV, LLC - Capital Group Properties, 259 Turnpike Road, Southborough, MA 01772, is requesting three, separate Special Permit approvals for a mixed-use development at 129 Parker Street. The Special Permit requests are to allow: i. a Drive-Thru Use (supermarket pharmacy). ii. a Multi-family Dwelling (up to 180 units). iii. a Continuing Care Retirement Community (143 units).**

**c. 129 Parker Street (Continued from 07.25.17) request for Special Permit for relief from Signage Regulations (allow for internally lighted wall signage on buildings) and relief from Parking Standards to allow for: • a reduction in the number of required parking spaces. • fewer than the required number of raised landscaped islands situated throughout the parking field with dimensions, locations and designs variant from those required. • elimination of light poles in certain raised landscape islands and the installation of light poles in paved areas of the parking field, all as depicted on the submitted Development Site Plans and as consistent with the approved Concept Plan.**

Chair Tuzzolo stated that they will go thru the draft decision, the Board will take feedback from the applicant and the public.

A resident stated that the document on the website was dated July 21, not the revised document and feels it is unfair on being able to comment on a document they have not seen. Chair Tuzzolo stated that copies will be provided to the public to go thru tonight, he was not aware until now that the most recent draft was not posted to the website. Wayne Amico Town Engineer stated he is looking at the website right now and there is a revised draft on the website, the Board and Town are being overly gracious in trying to keep the public up to date on this document, this is not normally done.

Chair Tuzzolo read some ground rules for the protocol of the meeting tonight to get thru the document efficiently. Section 1-8 is mainly documentation submitted; tonight's discussion will primarily be Section 9. They will proceed in order; will not go back to items once covered. Applicant will be asked for comment first on each item and public comment limited to two minutes; the Board will refrain from

comment and discuss their views during deliberation. Town Planner Bill Nemser handed out copies of the draft decision revised thru August 3<sup>rd</sup>. The Board will determine later in the meeting whether to close the public hearing. A resident stated that if the meeting is closed it would not allow the public to give comment since they did not have access to the most recent copy. Town Planner Bill Nemser stated this document is constantly changing there have been several revisions just today, the town has been posting as much as possible but this is an ever-changing document. Chair Tuzzolo stated if comments have been received by Bill Nemser they will address those tonight.

Chair Tuzzolo stated that the decision is drafted in the affirmative, but wants to make it clear that the Board has not voted on the request yet.

Attorney Catanzaro stated that there have been some changes, but 80-90% of the document the applicants are in agreement with. Chair Tuzzolo asked Attorney Catanzaro to go thru each of the items

Attorney Catanzaro began:

Section A1-A7 no issue  
Section B no comments,  
Section C no comments,  
Section D no comments,  
Section E no comments, this has been revised since the July 21 draft,

Chair Tuzzolo asked for any public comments for Section A basically refers to compliance with state and local boards and commissions– there were no public comments. Section B – no public comments; Section C – no public comments; Section D – no public comments; Section E – operations manual – is part of decision subject to any changes the Board makes to the O & M plan. A question from public was can the Board make changes to the O & M manual, town counsel stated the Board can make changes to the O & M manual. Chair Tuzzolo stated they will address this during deliberation.

Section F – conditions , precedents, commencement of project; this links to the site development plans, Chair Tuzzolo asked Attorney Catanzaro to go thru line by line. Attorney Catanzaro stated this section was changed from the July 21st version to make sure it reflects the final site plans for this site; these will be the construction documents if approved.

#20 – this has been changed since the August 3<sup>rd</sup> version, town has agreed to 5 paper and 10 discs. No public comment

# 21 no changes by applicant, no public comment

#22 minor change from original, have provided a construction phasing schedule, no public comment

#23 no changes, have filed with MEPA, have certification, no public comment

#24 conditions to pre-site disturbance, these are the requirements for the applicant. The applicant agrees to do this, no public comment

#25 no changes, no public comment

#26 the applicant requests a change from the August 3<sup>rd</sup> version, in the construction industry utilities grant these permits, town agreed to wording that the applicant has proof that they have applied for the utility permits. No public comment

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#27 agrees to this, one fence height was changed

Chair Tuzzolo asked if there were any public comment up to F27.

An abutter stated that the concept plan that was approved included a more detailed buffer landscape plan and it indicated a 6 ft high retaining wall, that retaining wall is important, the current site plan indicates a 5.75 ft retaining wall at highest down to 0 ft before the end of her property line.

#28 this is an ongoing discussion with Town Administration and the applicant, from the August 3<sup>rd</sup> version this condition has changed, this ties into other documents, as this was drafted it did not meet the needs of the applicant, the applicant is agreeing to pay a pro rata share of offsite sewer flow mitigation that will be affected due to this project, that is in addition to connection fees, the amounts agreed upon will be part of an exhibit in the decision. Town Engineer Wayne Amico stated the applicant and town administration have agreed to a %, he has revised wording for this condition that references exhibit C , town agrees this is a fair share assessment. Chair Tuzzolo reiterated that this can still be changed by the Board during deliberations; he still has some questions but will take public comment at this time. Town Counsel stated the condition as written now links to exhibit C it is the recommendation from Town staff, the condition can be modified it is up to the Board to determine this is appropriate.

A resident asked if this is an arrangement for payment or change to sewer connection fees. Stamtech brought up issues that need to be addressed, is the rest of the town aware of these additional repairs. Mr. Amico stated the sewer connection fees are separate, and regarding improvements the town would be paying these improvement costs if the project was not built. Attorney Catanzaro these issues arose after the Memorandum of Agreement, so the numbers for the connection fees will be adjusted.

#### Section G – conditions for application of a building permit

Attorney Catanzaro stated paragraph 29 has been proposed to be revised, he read the proposed wording. Chair Tuzzolo stated these are requirements that need to be completed prior to issuance of a building permit. Bill Nemser stated condition D was revised in response to requiring the buffer be in place prior to issuance of a building permit.

A resident asked that the existing trees remain until the new trees are planted, this will be less impact to abutters.

#### Section H – compliance with site plan and special permit approvals

#30 thru 38 no issue by applicant, H32 a resident asked the board to add language before 7 am, construction or other activities and cease at 4 pm, no construction on Sundays or holidays. The applicant commented that a lot of contractors do not recognize state holidays. Another resident asked that construction hours be adjusted to cease before 6 pm.

#39 proposed changes – the applicant's had discussion with Bill Nemser to change wording to allow request that temporary occupancy permits would be permitted pursuant to Planning Bd regulations. Town Counsel did not hear of this change, the Board can consider this, but it is a change that has not been approved in discussions with Town Counsel. Wayne Amico stated they talked to applicant, have

not received input from the Building Inspector. Bill Nemser stated in prior decisions for request for temporary occupancy they come before the board, the applicant has requested it be left to the building inspectors' discretion. Town Counsel the Board can ask Building Inspector even if public hearing is closed. No public comment on 39.

#40 – 42 no issue, no public comment.

#43 has been modified in the August 3<sup>rd</sup> version, the town wants walk to be asphalt and 6 ft wide, the applicant agrees to these changes subject to the town providing the authority to do work on town property and town obtains proper approvals from required boards or commissions for work on town property, no public comment.

#44 no issue – Wayne Amico stated this does not even need to be there, no public comment

#45 - 48 no issue, an abutter commented on #46 dust related to construction stating there are new regulations coming out on dealing with demolition and crushed concrete, she wants to make sure the Building or Health inspector is familiar with those hazards.

#49 there has been discussion – the town does not record as-builts at registry of deeds, no public comment.

#50, 51 no issue, no public comment.

#52 no issue but understands that exhibit E has been revised; this has been discussed between sign consultant and Mark Rosenshein, no public comment.

#53 – 55 no issue, no public comment.

#### Section I

#56 - Attorney Catanzaro stated there has been extensive dialog between applicant and town engineer, Attorney Catanzaro stated neither he nor Town Counsel was present for these discussions so would ask Town Engineer what was agreed to. Wayne Amico asked that the client present then he will give his interpretation. Applicant stated that this condition is about compliance inspections and ultimately at completion of the building construction control affidavits and as-built plans. The applicant is requesting that their engineers do weekly inspections and provide a monthly report to the town, in conversations with Wayne he said on other large projects the reports did not come in a timely manner, the applicant inserted the wording that if the reports are not submitted when required, the town can hire an engineer to do the inspections at the applicants cost. However the town engineers cannot give certification at the end. Wayne will prepare a list of phasing inspections that the town will perform, the engineer of record generally does all these inspections. The version the board has is not the current proposed wording, Wayne feels they can come up with a reasonable wording, town will make periodic inspections. Attorney Catanzaro stated in addition to the town inspections that the applicant will pay for, they will pay for water and sewer inspections that are required. Wayne stated updated wording for this condition will be forwarded to the board. Chair Tuzzolo asked about off-site inspections, applicant stated they have two engineers on-site and off-site.

A resident asked if there will be regular visits to the site to ensure that the details of the decision and plans are being complied with. The Building inspector will be ensuring compliance with the site plan throughout the whole process. Bill Nemser this condition deals more with engineering issues.

#57 – adequate notice, Attorney Catanzaro stated any member of the town staff can go onto the site at any time, no public comment.

#58 – request change of performance bond to be for incomplete post-construction mitigation, before issuance of first occupancy certificate. Town Counsel stated generally a performance bond is required pre-construction, no public comment.

#59 – no issue, a resident stated the # 59 timeline has been changed, this is contradictory to #62, having the project potentially 10 years is very long time. She is also concerned that once a building is started that there is a timeline that it has to be finished. The applicant commented that a lot of this is market driven if there is a recession they would not build buildings that will sit empty. Attorney Catanzaro the plan is to build the entire site, but with all commercial projects they are market driven want the ability to preserve the permit. Another resident thought there should be clarification on the time limits and what parameters an extension would be granted. Town Counsel when you have a condition for an extension there should be the finding of good cause. Chair Tuzzolo asked Bill Nemser to work on re-wording for this condition.

#60 – applicant requests to be stricken the proposal has been written into 56, no public comment.

#61 – no issue, no public comment.

#62 – no issue, no public comment.

#63 – requested that it be deleted in its entirety – town engineer and planner ok, a question to the Board don't they need to know where the construction materials are located. The resident stated that the stockpiling areas should not be next to the residential areas. The applicant stated that areas are constantly moving, the buffers will be done first, and the stockpiles go where the construction is occurring.

#64 an 65 no issue, no public comment.

## Section J

# 66-The applicant requests a tri-partite agreement with the town. Attorney Catanzaro stated that these are usually backed by the bank and letter of credit. Town Counsel it is up to the Board to define what sufficient security is. Chair Tuzzolo asked if the bonding is done by phasing, only site work is bonded. Applicant is looking for opportunity to present a tri-partite agreement instead of a bond. No public comment.

#67 no issue, no public comment.

Attorney Catanzaro stated there were some requested changes that do not appear in the August 3<sup>rd</sup> version to exhibit E, applicant looking for instead of Market 32 the word be changed to supermarket.

Attorney Catanzaro commented that is all the input from the August 3<sup>rd</sup> version of the draft decision. Town Counsel stated the Board is not precluded to go by the latest version.

Chair Tuzzolo addressed the board, he would like to hear their thoughts on closing the public hearing or outstanding issues. There is a memo from VHB dated today that summarizes and makes recommendations on conditions. Wayne Amico read the additional notes that they recommend adding to the decision findings/conditions.

A resident asked about exhibit E regarding internal illumination.

Chair Tuzzolo asked for comments from the board; Andrew D'Amour felt they should leave the public hearings open until beginning of next meeting, this would allow the public the maximum amount of time to comment, Samantha agreed. Bill Nemser reiterated that the changes are constant, the document is constantly changing, he will try to keep the updated on website, public should submit comments. Town Counsel stated it is not necessary to provide another draft, this is an unusual way to handle a decision, generally this does not occur until deliberation of the board, the board and town have been more than accommodating in keeping the public updated.

The Board will review comments from the public and take into consideration as part of the deliberation.

Chair Tuzzolo stated that it appears that the first item will be to close the public hearings at the next meeting August 15<sup>th</sup>, after the hearings are closed no new discussion or information can be heard from the applicant or the public. For the conditions that there was substantive change they will be given to the Board but the Board will work off the latest draft version. After closing the hearings the Board should create a structure they will follow on working thru the deliberations.

Attorney Catanzaro stated at the next meeting he will ask the Board to vote, there are time constraints they are up against. Town Counsel will give guidance to the Board on voting prior to the final decision. Chair Tuzzolo asked Town Counsel for confirmation that they can vote and then keep deliberating, Town Counsel confirmed this. There was discussion that all six members have missed the one allowed meeting, all members will be present at the next meeting but if a regular member is missing the alternate will become the voting member for the decision. At the next meeting the Board will make the decision to close the hearing and perhaps vote.

Attorney Catanzaro is asking for a vote, but would like that to be after there is some deliberation and have the conditions substantially complete. Town Counsel stated the Board should discuss the major conditions, they do not have to have the language finalized after the vote, but the major topics should be deliberated. Samantha asked how the board can vote without having the conditions complete, Town Counsel clarified that the Board has to generally know what the conditions will be but the language does not have to be finalized. Each member will prepare a list for the items that require discussion and clarification.

***A motion was made by Greg Tuzzolo to continue the public hearings for the site plan and special permit applications for 129 Parker Street to August 15, 2017 at 7 pm, seconded by Andrew D'Amour. The Board voted 5 to 0.***

***A motion was made by Andrew D'Amour to adjourn seconded by Samantha Elliott.***

Meeting adjourned at 9:37 p.m.